

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 150 – HB 144

April 4, 2013

SUMMARY OF ORIGINAL BILL: Makes changes to the *Surplus Lines Insurance Act*. Establishes penalties for surplus lines insurance agents who fail to file and timely pay surplus lines premium taxes. Places a tax of five percent on the premium tax due, in addition to such premium due, for the first month or fractional months. Increases such tax by another five percent for the second month or fractional second month; thereafter, increasing by one half-percent each month, the maximum penalty not to exceed \$10,000 for any surplus lines agent not more than three days delinquent. Any amount due will bear 10 percent annually from the date such tax became due, until paid. Authorizes the Commissioner of the Department of Commerce and Insurance to grant an extension of time, not to exceed 60 days, to a surplus lines insurance agent who has failed to pay owed premium taxes, however, such tax shall begin to bear interest from the day it becomes due. Authorizes the Commissioner to charge a convenience fee to cover the actual cost of accepting electronic reports, affidavits, and tax payments. Authorizes the Commissioner to contract or compact with other states for the purpose of collecting or disbursing premium taxes on multi-state insurance risks.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue - Exceeds \$10,000
Increase State Expenditures – Not Significant

SUMMARY OF AMENDMENTS (006114, 004903): Authorizes the Commissioner of Commerce and Insurance to waive any penalty or interest on any delinquent gross premiums or the tax on gross premiums. Authorizes any convenience fee be collected from the insured in addition to the gross premium and gross premium tax. Authorizes, rather than requires, the Commissioner to debar any surplus lines agent from transacting any business in this state, should the agent fail to pay, either, the gross premium tax due plus any penalty and interest accrued for 60 days beyond the due date. Such debarment would last until such agent has paid all dues in-full. Changes the effective date of this bill from July 1, 2013, to January 1, 2014. States that a writing agent, who collects the premium tax funds for a surplus lines agent, is required to make the necessary gross premium tax payments as required by law.

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FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:


Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- The Department of Commerce and Insurance will not incur a significant increase in expenditures due to any regulatory or operational changes that will result from the proposed legislation.
- Any increase in expenditures for the Department to establish a system to accept electronic reports, affidavits, and tax payments will be offset by the establishment of a convenience fee charged to individuals submitting the information electronically. The net fiscal impact is estimated to be not significant.
- According to the Department, there are currently 134 authorized surplus lines insurance companies and 4,054 licensed surplus lines agents licensed in the state.
- Any additional revenue collected by the Department of Commerce and Insurance is unknown and is dependant upon many unknown factors, including: the number of licensees who will fail to pay premium taxes on time; the length of time, on average, it will take someone to pay all due taxes upon becoming late; whether the Commissioner will charge convenience fees for reports, affidavits, and tax payments; whether the Commissioner will grant extensions to agents who are past due; and whether the Commissioner will contract with other states in order to collect premium taxes on multi-insurance risks; however, any amount collected is reasonably estimated to exceed \$10,000.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/jdb